IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

OP.No. 32447 of 2000(K)

PETITIONER:

P.MOHANAN, "SRINIVAS,"
PAYYATTIL HOUSE,
IRINJALAKUDA NORTH, 680125.

BY ADV. SRI.K.G.BALASUBRAMANIAN
SRI.V.BIJU JOSEPH

RESPONDENTS:
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1. **STATE OF KERALA REP.BY SECRTARY**
(HOME) C DEPARTMENT,
THIRUVAANTHAPURAM.

2. **ACCOUNTANT GENERAL,**
THIRUVAANTHAPURAM.

BY GOVERNMENT PLEADER SMT.T.B.RAMANI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.32447/2000

ORDER ON CMP. NO.55447/2000 IN OP. 32447/2000

DISMISSED

06.11.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PAGE IX OF GO(P) NP.600/93 DT. 25.9.93.

EXTP2:- COPY OF THE REPRESENTATION DT. 14.11.96 SUBMITTED BY PETITIONER BEFORE 2ND RESPONDENT.

EXT.P3:- COPY OF THE REPLY DT. 17.2.97 FROM 2ND RESPONDENT TO PETITIONER.

EXT.P4:- COPY OF THE REPRESENTATION DT. 12.3.97 SUBMITTED BY PETITIONER BEFORE 2ND RESPONDENT.

EXT.P5:- COPY OF THE LETTER DT. 28.4.97 FROM 2ND RESPONDENT TO PETITIONER.

EXT.P6:- COPY OF THE LETTER DT. 5.8.98 FROM IST RESPECT TO THE REGISTRAR, HIGH COURT.

EXT.P7:- COPY OF THE CERTIFICATE DT. 9.9.98 ISSUED BY DISTRICT & SESSION JUDGE, ERNAKULAM.

EXT.P8:- COPY OF THE LETTER DT. 15.1.99 FROM 2ND RESPONDENT TO PETITIONER.

EXT.P9:- COPY OF THE REPRESENTATION DT. 12.2.99 SUBMITTED BY PETITIONER BEFORE 2ND RESPONDENT.

EXT.P10:- COPY OF THE DO. DT. 8.11.99 BEFORE DO. DO.

EXT.P11:- COPY OF THE ORDER NO.GO(RT) NO.2974/2000 /HOME DT. 26.7.2000 ISSUED BY 3RD RESPONDENT TO PETITIONER.

/TRUE COPY/

P.A. TO JUDGE

tss

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.32447 OF 2000

Dated this the 6th day of November, 2007

JUDGMENT

Petitioner retired as Sherestadar of Motor Accidents Claims Tribunal. He claims that by virtue of his promotion as Sherestadar, he was entitled to an advance increment with effect from 1.3.1992 on the premise that on his promotion to the post of Sherestadar, Sub Court from the post of Senior Superintendent, District Court, he was entitled to such benefit. Repeated consideration and re-consideration of the claim of the petitioner ultimately led to the issuance of the impugned Ext.P11, by which, the Government categorically took the view that in terms of the relevant service rules, which are the general rules, the petitioner is not entitled to advance increment. He presses Ext.P7 certificate in support of his claim that he had been a Senior Superintendent before being promoted as Sherestadar. But, Ext.P7 shows only that the petitioner was promoted to the post of Sherestadar while working as Head Clerk (Gazetted) and his such officiation was from the forenoon

of 1.12.1987 to the forenoon of 16.8.1989. The said certificate further shows that the post of Head Clerk (Gazetted), District Court was re-designated as Senior Superintendent (Gazetted) as per Government Order dated 7.12.1995. The re-designation by that G.O. is essentially an executive decision following the communication of the Registrar of the High Court. Such action by the Government is only prospective and would operate only from 7.12.1995. Therefore, G.O(MS).371/95/Home dated 7.12.1995 cannot be utilised to characterize the officiation of the petitioner from 1.12.1987 to 16.8.1989 as officiation as Senior Superintendent. He had been only Head Clerk (Gazetted). Therefore, the impugned decision is not vitiated on counts of any jurisdictional error or legal infirmity. The writ petition fails. The same is accordingly dismissed. No costs.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.32447 OF 2000

JUDGMENT

6TH NOVEMBER, 2007.

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